

**IN THE UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**CHARLESTON DIVISION**

MARVIN ELLIS WENDELL,

Plaintiff,

v.

CIVIL ACTION NO. 2:19-0301

ANDREW SAUL, COMMISSIONER  
OF SOCIAL SECURITY,<sup>1</sup>

Defendant.

**MEMORANDUM OPINION AND ORDER**

This action was referred to the Honorable Dwane L. Tinsley, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge has submitted findings of fact and recommended that the Court grant Claimant's request to reverse the Commissioner's decision (ECF No. 7), deny the Commissioner's request to affirm his decision (ECF No. 8), reverse the Commissioner's decision, and remand this matter to the Commissioner for an award of benefits. Neither party has filed objections to the Magistrate Judge's findings and recommendation.

Accordingly, the Court accepts and incorporates herein the findings and recommendations of the Magistrate Judge and **GRANTS** Claimant's request to reverse the Commissioner's decision (ECF No. 7), **DENIES** the Commissioner's request to affirm his decision (ECF No. 8),

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<sup>1</sup> Andrew Saul is now the Commissioner of Social Security and is automatically substituted as a party pursuant to Fed. R. Civ. P. 25(d). See also, Section 205(g) of the Social Security Act, 42 U.S.C. § 405(g) (stating action survives regardless of any change in the person occupying the Office of the Commissioner of Social Security).

**REVERSES** the Commissioner's decision, and **REMANDS** this matter to the Commissioner for an award of benefits, consistent with the findings and recommendation.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented parties.

ENTER: February 13, 2020

A handwritten signature in black ink, appearing to read 'Robert C. Chambers', written over a horizontal line.

ROBERT C. CHAMBERS  
UNITED STATES DISTRICT JUDGE